IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITON NO.8979 OF 2005

M/s.Kriplani Motor Transport & Ors. ..Petitioners.

V/s.

State of Maharashtra & Ors. ..Respondents.

Mr.K.S.Bapat i/b. Mr.Avinash Fatangare for petitioners.

CORAM : V.C.DAGA, J.

DATED : 25TH APRIL, 2006.

P.C. :-

Heard learned counsel for the petitioners. Perused the petition.

2. The factual matrix reveals that the reference of dispute made on 21/6/2003 (Exhibit-A) reads as under:-

> " M/s.Kriplani Motor Transport, Pune, 18 and four others."

3. The cause title of the "statement of claim" describes Party No.1 as under:-

> 1) M/s.Kriplani Motor Transport.
>
> 2) M/s.Parmanand A. Kriplani.
>
> 3) M/s.Moti R. Kriplani.
>
> 4) M/s.Ramesh A.Kriplani.
>
> 5) M/s. Arjundas M.Kriplani.

For all the above common address is shown as under:-

205-6-8, Pune-Mumbai Road, Pimpri, Pune-411 018.

4. Petitioners without filing any written statement on merits, taking advantage of the description of the parties; shown in the cause title of the statement of claim, chose to prefer preliminary objection challenging tenability of the reference itself contending that in one Reference four establishments cannot be grouped.

5. The parties were heard by the Court below. The application came to be rejected by the impugned order dated 26th September, 2005 passed by the Industrial Tribunal, Pune, This order is the subject matter of the challenge in this Writ Petition under section 226 & 227 of the Constitution of India.

6. Mr.Bapat, learned counsel for the petitioners submits that the reference made is bad and illegal since it has roped in four establishments in one Reference; which is not permissible in law.

7. On being asked, Mr.Bapat could not answer as to whether the persons described in the cause title of the statement of claim are separate and independent entities or they are partners of the first petitioner

firm. He pleads ignorance with regard to the status and constitution of the first petitioner. He does not know whether they are independantly operating partnership firms or each of them is a proprietorship concern operating under different trade names. He does not know whether or not they are engaged in any business. No details in this behalf are to be found in this petition.

CONSIDERATION

8. The cause title of the petition is as under:-

1) M/s.Kripalani Motor Transport.

2) Parmanand A.Kriplani.

3) Moti R.Kriplani.

4) Ramesh A.Kriplani.

5) Arjundas M.Kriplani.

having their office at 205-6-8, Bombay Pune Road, Pimpri, Pune-411 048.

The above description of the petition indicates that M/s.Kripalani Motor Transport is an establishment; whereas petitioner Nos.2 to 5 have been joined in the petition in their individual capacity. Those who are impleaded in the statement of claim i.e. respondent Nos.2 to 5 are not parties to the petition. At the same time those who are shown as petitioners (petitioner Nos.2 to 5) are not parties to the statement of claim. However, petition does not disclose status or

relationship of petitioner Nos.2 to 5 with that of petitioner No.1 firm It is not disclosed rather suppressed or kept back from the Court.

9. This petition has not been filed by all the parties to the statement of claims; except M/s. Kripalani Motor Transport. Others have filed petition in their individual capacity. However, since their capacity has not been disclosed in the petition, it is not possible to guess in what capacity they are associated with M/s.Kripalani Motor Transport. For want of material facts and particulars; the contention raised in the petition cannot be adjudicated upon.

10. M/s.Kripalani Motor Transport, Petitioner No.1 has also not disclosed its status in the petition. It is not disclosed whether it is a partnership firm or a proprietorship concern or merely it is a trade name. Petitioner Nos.2 to 5 have also not disclosed their status in the petition.

11. The sweeping statement is made in para No.1 of the petition that the petitioner No.1 is in the business of transportation and petitioner Nos.2 to 5 are related to each other but how are they related has not been disclosed. It is also not disclosed under what title they are carrying on their business, what is the nature

of their business.

12. The very cause title denotes that all the four Mr.Parmanand Kriplani, Mr.Moti Kriplani, Mr.Ramesh Kriplani and Mr.Arjandas Kriplani are associated with petitioner No.1 M/s.Kripalani Motor Transport.

13. In the above view of the matter, it is clear that the petitioners have suppressed their actual status from this Court while invoking the writ jurisdiction of this Court. In this view of the matter, the petition is not bonafide. It is based on suppression of facts. The issue sought to be raised cannot be adjudicated upon on the basis of incomplete information, details and material particulars, as such, petition is liable to be dismissed.

14. The petitioners are not entitled to invoke the writ jurisdiction of this Court on suppression of facts. Petition is, therefore, liable dismissed in limine being frivolous with costs quantified in the sum of Rs.10,000/-. The amount of costs to be deposited with the Maharashtra State Legal Services Authority of this Court within 10 days from the date of receipt of the order. The reference Court shall not receive written statement of the petitioners-respondents before it unless evidence showing payment or deposit of costs is

produced before it.

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